

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

NICHOLAS D'ANDRE THOMAS,

Petitioner,

v.

CASE NO. 21-3200-SAC

BRIAN C. HILL,

Respondents.

MEMORANDUM AND ORDER

This is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241. Petitioner, who is proceeding pro se, is a pretrial detainee facing state criminal charges. Petitioner filed this petition on August 23, 2021, and it raises the same claims and seeks the same relief as Petitioner sought in his petition for habeas corpus filed on August 16, 2021, in Case No. 21-3181-SAC, *Thomas v. Maban*.

Thus, on September 3, 2021, the Court issued a Notice and Order to Show Cause (NOSC) directing Petitioner to explain, in writing, on or before September 24, 2021, why the matter should not be dismissed as a repetitive filing. (Doc. 4.) See *Childs v. Miller*, 713 F.3d 1262, 1265 (10th Cir. 2013) ("Repetitious litigation of virtual identical causes of action may be dismissed . . . as frivolous or malicious."); *Thomas v. Mitchell*, 2020 WL 68379 (D. Kan. Jan. 7, 2020) (memorandum and order).

Although Petitioner did not file a document labeled as a response, he did file a letter setting forth additional events that have occurred in his state criminal proceedings. Nothing in the

letter addresses the Court's NOSC or otherwise offers a reason why this matter should not be dismissed as a repetitive filing. Accordingly, the Court will dismiss this matter. As a result, Petitioner's pending motion for leave to proceed in forma pauperis (Doc. 2) is denied as moot.

The Court also concludes that its procedural ruling in this matter is not subject to debate among jurists of reason and declines to issue a certificate of appealability. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

IT IS THEREFORE ORDERED that the matter is **dismissed** and the motion to proceed in forma pauperis (Doc. 2) is **denied as moot**. No certificate of appealability will issue.

IT IS SO ORDERED.

DATED: This 7th day of October, 2021, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge